COVINGTON & BURLING

September 23, 1974

MEMORANDUM FOR: Committee of Counsel

As I informed you by phone last week, the Consumer Product Safety Commission decided on Thursday, September 19, to deny the furniture manufacturers' petition concerning self-extinguishing cigarettes, on the ground that the Commission lacks jurisdiction over the subject matter of the petition.

Commissioner Pittle announced the Commission's decision today at the Commission's weekly luncheon press briefing. He stated that the Commission had denied the petition because it "lacks jurisdiction to regulate cigarettes as an ignition source under either the Consumer Product Safety Act or the Federal Hazardous Substances Act." Pittle announced that the vote on the furniture manufacturers' petition was 4-0, and that Chairman Simpson was not present at the Executive Session on Thursday.

When asked for further explanation of the Commission's action, Pittle stated that his own reason for voting to dismiss the petition was that he could find nothing in the Federal Hazardous Substances Act which would cause cigarettes to fall within the definition of a "flammable" substance. He pointed out that cigarettes smolder rather than burn with a flame, and he added that cigarettes are quite different from liquids that emit flammable vapors.

The Commission's vote on the furniture manufacturers' petition was reported in today's Product Safety Letter, which stated under a column headed "In Brief" that "CPSC denies furniture makers' petition for self-extinguishing cigarette on grounds Commission has no jurisdiction."

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